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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION**

ORGANIC MATERIALS REVIEW INSTITUTE,  
an Oregon nonprofit corporation,

Plaintiff,

vs.

AMERICAN CEDAR TECHNOLOGY  
CORPORATION, a forfeited Texas corporation;  
DAVID L. GLASSEL and HENK NA GOREL III,  
Defendants.

Case No. 6:18-CV-01881-MK

**AFFIDAVIT OF COUNSEL IN  
SUPPORT OF PLAINTIFF'S  
MOTION FOR AN AWARD OF  
ATTORNEY FEES**

STATE OF OREGON            )  
                                      )       ss.  
County of Lane            )

I, FRANK C. GIBSON, being first duly sworn, state:

1. I am one of plaintiff's attorneys and I make this affidavit on personal knowledge.
2. Plaintiff is entitled by the following authorities to an award and judgment against defendants American Cedar Technology Corporation and David L. Glassel, in an amount that will reimburse plaintiff for the legal fees it expended in this matter: Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a); FRCivP 54(d)(2); LR 54-3; and Paragraph 8 of the Judgment signed by the Honorable Michael J. McShane on May 13, 2019 (#23).

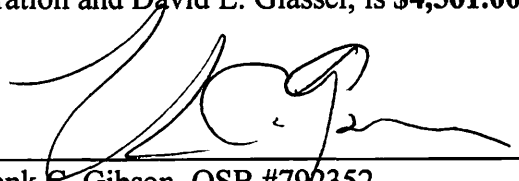
3. The nature of services and number of hours billed to and paid by plaintiff in this matter from its outset through May 20, 2019, is set forth in detail on Exhibit 1 Time and Expense Details report, attached.
4. The data for all timekeepers who worked on the matter are summarized in the table appearing on page 5 of the exhibit, which table includes the hourly rates for each service provider. Timekeepers are identified by their initials, as follows:

<b>Name</b>	<b>Position</b>
Frank C. Gibson (FCG)	Partner
Cindy Vance (CV)	Legal assistant; legal secretary

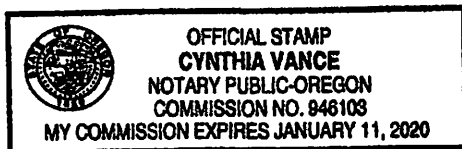
Note: My hourly rate changed on January 1, 2019, from \$290 to \$295, notice of which was given to the client prior to the change.

5. Recovery of charges for staff time is made by direct billing to the client and not by an addition to the lawyer's hourly rates. By delegating appropriate work to the timekeepers with lower hourly rates, the client's legal work is completed more efficiently and economically, and the billing is more accurate by the inclusion of these charges. Our office policy is to bill all clients for staff time in addition to the attorney billable time.
6. The primary tasks required to be performed by counsel and staff in this matter were these:
  - a. Advice to plaintiff regarding defendants' unauthorized use on its products of plaintiff's trademark. Plaintiff uses its mark in connection with its professional and independent review of materials and processes to determine their suitability for producing, processing and handling organic food and fiber.
  - b. Attempts to persuade defendant to cease and desist its unauthorized use of the mark.
  - c. When those attempts failed, research and drafting of pleadings and documents related to this litigation.

- d. Research and drafting of documents in connection with plaintiff's motion for entry of a default judgment against defendants American Cedar Technology Corporation and David L. Glassel, and for dismissal of claims against unserved defendant Henk NA Gorel III.
  - e. Drafting in connection with plaintiff's request for an award of attorney fees and its bill of costs. I estimate that I will expend 1.5 hours on these documents, and that Ms. Vance, my legal assistant, will expend 1.0 hour, the time value of which efforts totals \$557.50. These services are not yet able to be included in the Exhibit 1 report but are added into the total sum shown in the paragraph below.
7. Based on the foregoing, I believe that a reasonable amount of attorney fees to award plaintiff against defendants American Cedar Technology Corporation and David L. Glassel, is **\$4,561.00**.

  
\_\_\_\_\_  
Frank E. Gibson, OSB #792352

SUBSCRIBED AND SWORN TO before me this 29th day of May 2019, by Frank C. Gibson.



  
\_\_\_\_\_  
Notary Public for Oregon

# HUTCHINSON COX

## Time And Expense Details

Report ID: OT2025 - 74050

Printed By PJS

Date [09/29/2018 - 05/27/2019]

Wednesday, May 29, 2019

Page 1

Client 06588 Client Reporting Name Organic Materials Review Inst.

Matter C728N

Matter Reporting Name VS. American Cedar Tech.

Billing Timekeeper Gibson, Frank C.

Unbilled Time									
Date	Timekeeper	Hours Worked	Hours To Bill	Rate	Amount	Task	Activity	Narrative	
5/17/2019	FCG	0.10	0.10	295.00	\$29.50			Review and forward court notice regarding Default Judgment.	
5/17/2019	CV	0.40	0.40	115.00	\$46.00			Review notice from court and download/print signed Default Judgment. Email copy to client. Review drafts of Motion and Affidavit for attorney fees and make a few edits.	
5/20/2019	FCG	0.10	0.10	295.00	\$29.50			Instructions to legal assistant regarding attorney fee and cost bill statement.	
Unbilled Time Totals		0.60	0.60		\$105.00				
Billed Time									
Date	Timekeeper	Hours Worked	Hours On Bill	Rate	Amount	Task	Activity	Narrative	
10/2/2018	FCG	0.30	0.30	290.00	\$87.00			Telephone call to American Cedar Technologies. Draft memorandum to file.	
10/4/2018	FCG	1.40	1.40	290.00	\$406.00			Draft complaint vs. American Cedar Technology and letter to principals. Instructions to legal assistant regarding follow up.	
10/5/2018	CV	0.60	0.60	115.00	\$69.00			Proofread and make edits to the draft complaint prepared by attorney Gibson and the cover letter to opposing party. Copy for file and mail out. Scan and email to Mr. Glassel with copy to client. Calendar deadline. Organize materials in file.	
10/8/2018	FCG	0.10	0.10	290.00	\$29.00			Instructions to legal assistant regarding case follow-up.	
10/24/2018	FCG	0.50	0.50	290.00	\$145.00			Finalize complaint. Instructions to legal assistant regarding filing and follow up.	
10/25/2018	CV	1.50	1.50	115.00	\$172.50			Proofread, make minor edits, and finalize the complaint. Prepare the civil cover sheet. Scan and e-file the complaint and Civil Cover Sheet via the Federal Court website, including input of information to open a new case. Fill out new matter form and turn it into bookkeeping for new file to be opened. Prepare pleading index.	
10/25/2018	FCG	0.10	0.10	290.00	\$29.00			Instructions to legal assistant regarding service addresses.	
10/29/2018	CV	0.20	0.20	60.00	\$12.00	SEC		Organize materials in new file opened for client. Conference with attorney Gibson regarding status of Complaint filed (waiting for court's acceptance).	
10/29/2018	CV	0.50	0.50	115.00	\$57.50			Review email from court and follow instructions to finish process of filing the case. Email exchange with court clerk. Download/print file-stamped Complaint and Civil Cover Sheet. Organize materials in file. Conference with attorney Gibson.	
10/29/2018	FCG	0.30	0.30	290.00	\$87.00			Instructions to legal assistant regarding case filing and service. Review court notices (x3).	
10/30/2018	FCG	0.10	0.10	290.00	\$29.00			Review court notice.	
10/30/2018	CV	0.20	0.20	60.00	\$12.00	SEC		Review notice from District Court. Download/print Trademark Report and organize it in client's file and folder on the server.	
10/31/2018	FCG	0.10	0.10	290.00	\$29.00			Review Trademark Report. Instructions to legal assistant regarding same.	
11/1/2018	CV	1.10	1.10	115.00	\$126.50			Email to court clerk regarding issuance of summonses for the three defendants. Review response, then download form and prepare three summonses. Scan and e-file them with the court. Research process servers in Texas and send inquiry to one for fee quote. Review notice from court and download/print signed summons (x3) and mark them for attorney to certify true. Scan and email to client the notice we received from the court regarding action concerning a trademark.	
11/1/2018	FCG	0.20	0.20	290.00	\$58.00			Instructions to legal assistant regarding summons. Review court notices.	
11/2/2018	FCG	0.20	0.20	290.00	\$58.00			Instructions to legal assistant regarding locating Houston-area process server. Review court notice.	
11/2/2018	CV	0.40	0.40	115.00	\$46.00			Inquiry to another process server for information on potential cost. Conference with attorney Gibson. Prepare three service packets.	
11/5/2018	FCG	0.10	0.10	290.00	\$29.00			Status check with legal assistant regarding process server.	

## HUTCHINSON COX

### Time And Expense Details

Report ID: OT2025 - 74050  
Wednesday, May 29, 2019

Printed By PJS  
Page 2

Billed Time		Date [09/29/2018 - 05/27/2019]						
Date	Timekeeper	Hours Worked	Hours On Bill	Rate	Amount Task	Activity	Narrative	
11/6/2018	CV	0.90	0.90	115.00	\$103.50		Additional research online to locate process server because I hadn't heard back from the ones I had contacted. Send out requests for information and pricing to three more process servers. Review response from one company. Conference with attorney Gibson. Email back to process server with lengthy instructions and the service packets. Calendar follow up. Organize materials in file.	
11/7/2018	CV	0.10	0.10	60.00	\$6.00	SEC	Email exchange with process server to answer their questions.	
11/27/2018	CV	0.10	0.10	115.00	\$11.50		Send email to process server asking for update regarding service.	
11/30/2018	CV	0.20	0.20	115.00	\$23.00		Review email from process server regarding update, and forward to attorney Gibson with questions. Review his answer.	
12/5/2018	CV	0.20	0.20	115.00	\$23.00		Review email from process server and send responding email with instructions from attorney Gibson.	
12/12/2018	CV	0.20	0.20	115.00	\$23.00		Review email from process server, ask attorney Gibson for instructions, and send responding email to process server. Organize materials in file.	
12/12/2018	FCG	0.10	0.10	290.00	\$29.00		Instructions to legal assistant regarding process service.	
12/17/2018	FCG	0.60	0.60	290.00	\$174.00		Review service documents. Instructions to legal assistant regarding same.	
12/17/2018	CV	1.10	1.10	115.00	\$126.50		Review email from process server and download/print two proofs of service. Research requirements for mailing on subservice. Prepare draft Declaration of Mailing. Conference with attorney Gibson. Make attorney's revisions to Declaration of Mailing and print in final. Prepare two more service packets to be mailed out to Defendant ACT regular and certified mail.	
12/18/2018	CV	1.20	1.20	115.00	\$138.00		Mail the service packet and proofs of service to ACT via regular mail and certified/return receipt. Calendar follow up to get the green card back. Scan and e-file the proofs of service with the court. Telephone call to district court with questions on declaration. Review emails from court with instructions on cover sheet for proofs of service and prepare those cover sheets. Scan and email them to court per their instructions. Revise Declaration of Mailing to an Affidavit per the court's request. Scan and e-file it with the court. Organize materials in file.	
12/18/2018	FCG	0.10	0.10	290.00	\$29.00		Review court notices regarding process service.	
12/19/2018	FCG	0.20	0.20	290.00	\$58.00		Review court notices. Conference with legal assistant regarding same.	
12/19/2018	CV	0.10	0.10	115.00	\$11.50		Review notices from court and download/print file-stamped Proof of Service on ACT.	
12/27/2018	CV	0.40	0.40	115.00	\$46.00		Conference with attorney Gibson regarding status and follow up. Calendar to default Defendants ACT and Glassel 30 days from mailing on subservice. Check court's website and download file-stamped copies of two documents. Organize materials in file and in client's folder on the server. Email copies of proofs of service and affidavit of mailing on subservice to client with comments.	
12/27/2018	FCG	0.10	0.10	290.00	\$29.00		Instructions to legal assistant regarding status of court filings.	
1/7/2019	FCG	0.10	0.10	295.00	\$29.50		Instructions to legal assistant regarding process service bill and case status.	
1/7/2019	CV	0.30	0.30	115.00	\$34.50		Review of invoice and original proof of service documents from the process server (including return of non-service on one defendant). Label invoice and turn it into bookkeeping to be paid. Conference with attorney Gibson regarding requirements on defendant not served. Organize materials in file.	
1/18/2019	CV	1.90	1.90	115.00	\$218.50		Review file. Prepare drafts of Motion for Default Judgment and Dismissal, Affidavit of Counsel for Dismissal, Affidavit of Counsel for Order of Default, Affidavit of Peggy Miars for Default of Defendants, and Default Judgment.	
1/21/2019	CV	0.50	0.50	115.00	\$57.50		Make attorney Gibson's revisions to default and dismissal paperwork. Give back to him with one question. PDF the affidavit of Peggy Miars and email it to her with comments.	
1/21/2019	FCG	0.50	0.50	295.00	\$147.50		Revise default documents.	

# HUTCHINSON COX

## Time And Expense Details

Report ID: OT2025 - 74050

Date [09/29/2018 - 05/27/2019]

Printed By PJS  
Page 3

Wednesday, May 29, 2019

Billed Time

Date	Timekeeper	Hours Worked	Hours On Bill	Rate	Amount	Task	Activity	Narrative
1/22/2019	CV	0.20	0.20	60.00	\$12.00	SEC		Download/print Affidavit signed by Peggy Miars and convert it to searchable text per the court's requirement. Mark places for attorney Gibson to sign default paperwork.
1/24/2019	CV	0.90	0.90	115.00	\$103.50			Scan Motion, three Affidavits, and proposed Judgment to be e-filed. Make the PDF files text searchable. E-file them with the court. Organize materials in file and update pleading index.
1/24/2019	FCG	0.20	0.20	295.00	\$59.00			Review numerous court notices.
1/25/2019	CV	0.30	0.30	115.00	\$34.50			Review notices from district court and download/print file-stamped copies of documents e-filed yesterday. Organize materials in file and in client's folder in DocMoto. Email copies of documents to Peggy. Calendar follow up.
2/12/2019	FCG	0.10	0.10	295.00	\$29.50			Instructions to legal assistant regarding follow up with court staff.
2/15/2019	CV	0.20	0.20	115.00	\$23.00			Review file. Telephone call to District Court to inquire about status of our Motion for Default Judgment (left detailed voicemail). Notes made.
2/18/2019	CV	0.20	0.20	115.00	\$23.00			Review voicemail from federal court clerk answering my question from Friday on when we can expect a ruling. Calendar follow up. Memo to attorney Gibson.
2/18/2019	FCG	0.10	0.10	295.00	\$29.50			Conference with legal assistant regarding status of Default Judgment.
3/20/2019	CV	0.20	0.20	115.00	\$23.00			Review file. Telephone call to District Court clerk to inquire about the status of getting a Judgment signed. She tried to determine the status, then transferred me to the courtroom deputy of the judge assigned. Left detailed voicemail regarding why I was calling. Notes made.
3/21/2019	CV	0.20	0.20	115.00	\$23.00			Review and print notices from District Court and download court's Order from their website. Review file for next steps.
3/25/2019	CV	0.30	0.30	115.00	\$34.50			Review emails from court and download/print revised Order of Default and Dismissal (correcting court's typo). Organize in client's folder on the server. Notes to attorney Gibson. Review of FleaAway file to see what the court's procedure on the final paperwork was in that matter.
3/25/2019	FCG	0.20	0.20	295.00	\$59.00			Review court notice. Instructions to legal assistant.
3/29/2019	FCG	0.10	0.10	295.00	\$29.50			Instructions to legal assistant regarding final Judgment.
3/29/2019	CV	1.30	1.30	115.00	\$149.50			Review prior emails from court and documents in the file. Organize materials in file and update pleading index. Telephone call to Judge Kasubhai's judicial assistant for procedure to follow to submit final paperwork and request for attorney fees. Notes made. Conference with attorney Gibson regarding instructions. Begin preparation of draft paperwork: Motion for Award of Attorney Fees, Affidavit of Counsel in Support of Motion for Attorney Fees, and Bill of Costs.
4/4/2019	FCG	0.30	0.30	295.00	\$88.50			Review and revise Judgment documents. Instructions to legal assistant regarding same.
4/4/2019	CV	1.00	1.00	115.00	\$115.00			Review of file and Order signed by Judge Kasubhai. Revise draft Judgment Against ACT and Glassel. Prepare Motion for Entry of Judgment. Make revisions to Affidavit in Support of Motion for Attorney Fees. Conference with attorney Gibson.
4/5/2019	FCG	0.20	0.20	295.00	\$59.00			Execute court documents. Review court notices.
4/5/2019	CV	0.60	0.60	115.00	\$69.00			Make attorney Gibson's revisions to drafts of the Motion for Default Judgment and the Default Judgment. Scan and e-file them with the court, then email them to Judge Kasubhai, with copy to client. Later, review notices from court and download-print file-stamped documents.
4/6/2019	FCG	0.10	0.10	295.00	\$29.50			Review court notice.
4/8/2019	FCG	0.20	0.20	295.00	\$59.00			Review court notice. Instructions to legal assistant regarding case follow up.
4/8/2019	CV	0.20	0.20	115.00	\$23.00			Review email from court transferring matter to another judge. Conference with attorney Gibson. Organize materials in file and update pleading index. Calendar follow up to get signed Judgment.
4/30/2019	CV	0.20	0.20	115.00	\$23.00			Review file. Telephone call to District Court to inquire about status of Judgment to be signed. Notes to file. Memo to attorney Gibson. Calendar follow up.

# HUTCHINSON COX

## Time And Expense Details

Report ID: OT2025 - 74050

Date [09/29/2018 - 05/27/2019]

Printed By PJS  
Page 4

Wednesday, May 29, 2019

**Billed Time**

<b>Totals</b>	24.10	24.10	\$3,898.50
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**Billed Expenses**

Date	Amount	Exp Code	Narrative
9/29/2018	\$1.03	105	09/29/18 Visa Payment to Texas Secretary of State; Inquiry About Potential Defendant
10/26/2018	\$38.00	50	File Opening; conflict of interest check; file folder prep; setting up account in computer.
10/29/2018	\$400.00	105	10/25/18 Visa Payment to US District Court; Filing Fee - Complaint
12/18/2018	\$7.09	119	Certified Mail Expense
1/15/2019	\$175.00	105	01/15/19 Check #44051 to Clear Legal Process Service; Service Fees

**Billed Expenses**

<b>Totals</b>	\$621.12
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	Hours Worked	Hours To Bill	Fee Amount	Expense Amount	Total Amount
<b>Report Totals</b>	24.70	24.70	\$4,003.50	\$621.12	\$4,624.62

TIMEKEEPER SUMMARY				Cost Summary	
Organic Material 6588/C728N				Organic Material 6588/C728N	
Timekeeper	Hours	Rate	Balance	Type	Total
CV	0.70	\$ 60.00	\$ 42.00	File Opening	\$ 38.00
CV	17.20	\$ 115.00	\$ 1,978.00	Certified Mail	\$ 7.09
FCG	4.50	\$ 290.00	\$ 1,305.00	Costs Advanced	\$ 576.03
FCG	2.30	\$ 295.00	\$ 678.50	Total	\$ 621.12
<b>Total</b>	<b>24.70</b>		<b>\$ 4,003.50</b>		

\*\*\* End Of Report \*\*\*